

Application No. 10/576,701  
Paper Dated: December 1, 2010  
In Reply to USPTO Correspondence of September 1, 2010  
Attorney Docket No. 0702-061238

**REMARKS**

Claims 1, 7-12, 19-28 and 30-37 are currently pending. Claims 24, 25 and 30-35 have been withdrawn by the Examiner as relating to a non-elected invention. Applicant respectfully requests rejoinder of these claims upon allowance of claim 1.

Claim 1 has been amended, without prejudice, to clarify that, in some embodiments, the present invention is directed to a battery for the use in combination with a microchip, the battery having an electrolyte suspension that can be used to generate a current of electrons, which suspension comprises a plurality of hollow particles in electrically conductive contact, said hollow particles comprise a substrate permeable and electrically conductive outer shell and entrapped therein a redox-reaction catalyzing enzyme catalyzing an enzymatic conversion of said substrate in said hollow particles thereby liberating electrons, wherein the enzyme is an oxidase. These amendments are supported at least by original claims 19 and 28, and at page 3, lines 20-30 of the specification.

The respective claims dependent from claim 1 were amended to refer to a battery.

No new matter has been added to the application by any of the foregoing amendments.

**§112 rejections**

At pages 2-3 of the Office Action, the Examiner has rejected claim 8 under 35 U.S.C. §112, first and second paragraphs. The undersigned attorney telephoned the Examiner to confirm that these rejections are directed to claim 13, rather than claim 8. Claim 13 has been cancelled, without prejudice; therefore the rejections of claim 13 are moot. Applicant respectfully requests withdrawal of these rejections.

**§102(b) rejection**

Claims 1, 7-13, 27, and 28 have been rejected under 35 U.S.C. §102(b) as being anticipated by Vriezema et al. (Angew Chem Int Ed, published online 2/17/03) in light of Lau et al. (Organic Letters, 2000). The reasons for rejection are set forth in the Office Action at pages 4-5. For brevity, these reasons for rejection are not repeated but are incorporated by reference

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herein.

Applicant respectfully traverses the §102(b) rejection and request that the rejection be reconsidered and withdrawn.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Vriezema et al. in light of Lau et al. does not disclose that the suspension of Vriezema et al. can be modified into, or used as a battery power supply for providing power to, for example, a microchip, such as is set forth in claim 1 as amended. Furthermore, Vriezema et al. in light of Lau et al. does not disclose use of oxidase, such as glucose oxidase, for the enzyme.

Thus, Vriezema et al. in light of Lau et al. is missing an element of claim 1 and does not anticipate claim 1. Claims 7-12 and 28 depend from claim 1 and are novel over the disclosure of Vriezema et al. in light of Lau et al. for at least the same reasons as with respect to claim 1. Claims 13 and 27 have been cancelled, therefore the rejection of these claims is moot.

For at least the foregoing reasons, claims 1, 7-12 and 28 are novel over the disclosure of Vriezema et al. in light of Lau et al. Accordingly, Applicants request reconsideration and withdrawal of this rejection.

### **§103(a) rejection**

Claims 1, 7-13, 19-23, 26, 27, 28, 36 and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Vriezema et al. as applied to claims 1, 7-13, 27, 28 above, further view of Gill et al., ("Bioencapsulation within synthetic polymers (Part 1): sol-gel encapsulated biologicals", TIBTECH July 2000 (Vol. 18), pp. 282-296. The reasons for rejection are set forth in the Office Action at pages 6-7. For brevity, these reasons for rejection are not repeated but are incorporated by reference herein.

Applicant respectfully traverses the §103(a) rejection and request that the rejection be reconsidered and withdrawn.

As reiterated by the Supreme Court in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 82 U.S.P.Q.2d 1385 (2007), the framework for the objective analysis for determining

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obviousness under 35 U.S.C. §103 is stated in *Graham v. John Deere*. Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc., 72 Fed. Reg., No. 195 (October 10, 2007) at page 57527 (hereinafter “Examination Guidelines”). The factual inquiries enunciated by the Court are as follows:

- (1) Determining the scope and content of the prior art;
- (2) Ascertaining the differences between the claimed invention and the prior art; and
- (3) Resolving the level of ordinary skill in the pertinent art.

Examination Guidelines at page 57527.

As discussed in detail above, Vriezema et al. in light of Lau et al., further in view of Gill et al., does not suggest or disclose that the suspension of Vriezema et al. can be modified into, or used as a battery power supply for providing power to, for example, a microchip, such as is set forth in claim 1 as amended. Thus, Vriezema et al. in light of Lau et al., further in view of Gill et al., is missing an element of claim 1 and does not obviate claim 1. Claims 7-12, 19-23, 26, 28, 36 and 37 depend from claim 1 and are unobvious over the disclosure of Vriezema et al. in light of Lau et al., further in view of Gill et al., for at least the same reasons as with respect to claim 1. Claims 13 and 27 have been cancelled, therefore the rejection of these claims is moot.

For at least the foregoing reasons, claims 1, 7-12, 19-23, 26, 28, 36 and 37 are not obvious over the disclosures of Vriezema et al. in light of Lau et al., further in view of Gill et al. Accordingly, Applicant requests reconsideration and withdrawal of this rejection.

### **Conclusion**

It is believed that any pending objections and rejections have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify

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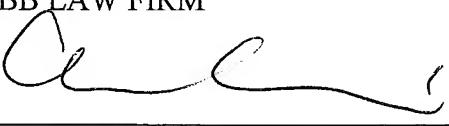
concession of unpatentability of the claim prior to its amendment.

Applicant submits that the pending claims are in condition for allowance, which action is requested. The Examiner is invited to contact the undersigned directly at 412-227-3061 with any questions.

Respectfully submitted,

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